

29, 2021. If the motion is granted, Defendants will respond to the amended complaint in accordance with the Federal Rules and any subsequent order of this Court.

Finally, the parties note that the Court may wish to await developments in related Fifth Circuit litigation before proceeding further in this case. Specifically, in *Feds for Medical Freedom v. Biden*, No. 21-356, 2022 WL 188329 (S.D. Tex. Jan. 21, 2022), a district court entered a nationwide preliminary injunction prohibiting the implementation or enforcement of Executive Order 14043. That decision was reversed by the Fifth Circuit, in an opinion holding that the Civil Service Reform Act precludes a federal employee's challenge to Executive Order 14043, but the mandate did not immediately issue and the injunction remained in effect. *See Feds for Medical Freedom v. Biden*, 30 F.4th 503 (5th Cir. 2022). On June 27, 2022, the Fifth Circuit granted the plaintiffs' petition for rehearing en banc, vacated the panel opinion, ordered supplemental briefing, and set the case for oral argument for the week of September 12, 2022. *See Feds for Med. Freedom v. Biden*, No. 22-40043 (5th Cir. June 27, 2022). For those reasons, as of the date of this filing, the preliminary injunction remains in effect and Executive Order 14043 will not be enforced against Plaintiff. Further developments in the *Feds for Medical Freedom* litigation will necessarily affect some of the issues to be decided by this Court, and this Court therefore might consider awaiting further developments in the *Feds for Medical Freedom* litigation before proceeding further in this case.

Although Plaintiff agrees that there is overlap between the issues in the current matter and those in *Feds for Medical Freedom*, Plaintiff contends that this matter should move forward because Plaintiff's Proposed Amended Complaint also contains theories of violation—including claims of religious discrimination—which are not before the Fifth Circuit Court of Appeals in *Feds for Medical Freedom*.

Dated: July 8, 2022

/s/ David A. Foley
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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on July 8, 2022, a copy of the foregoing was filed electronically via the Court's ECF system, which effects service upon counsel of record.

/s/ R. Charlie Merritt
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